

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6767 OF 2006

Ahilyadevi Sahakari Housing
Society Ltd. & Ors. ..Petitioners

Vs.

Kondiba Baji Shinde & Ors. ..Respondents

Mr.Gajanan M.Savagane for the petitioners

Mr.Umesh Mankapure i/b M/s.J.Shekhar & Co. for
respondent nos.1 to 11

Mr.S.K.Chinchalikar, A.G.P. for the state

CORAM : A.P.DESHPANDE, J

DATED : 27TH NOVEMBER, 2006

P.C.:

1. The respondent nos.1 to 11 herein had filed a dispute before the Co-operative Court challenging the election of the Managing Committee of the petitioner no.1 Housing Society mainly on the ground that the disputants were wrongfully denied an opportunity to participate in the election process though they are valid members of the society.

2. The Co-operative Court dismissed the

dispute and aggrieved thereby the respondent nos.1 to 11 carried an appeal before the Maharashtra State Co-operative Appellate Court, Bombay Bench. The Co-operative Appellate Court has allowed the appeal holding that the appellants before it were validly enrolled members and had right to participate in the process of election. The Co-operative Appellate Court further found on facts that the total membership of the society is 59 whereas 27 members were denied voting rights thereby materially affecting the result of the election.

3. Respondent nos.1 to 11 herein are admittedly members of the society. Respondent nos.1 to 11 were denied voting rights solely on account of failure on their part to contribute small amounts towards the yearly contribution payable to the Society. The First appellate court has rightly concluded that the said persons continue to be the valid members and they have not been expelled and thus, had voting right.

4. After the passing of the order by the first

appellate court, the Deputy Registrar has already appointed one Mr.V.S.Potdar, a Co-operative officer as an administrator and the said administrator was also directed to conduct the election of the society. One of the grievance made by the present petitioners is to the effect that though this court had granted stay, the administrator had proceeded to take over the charge forcibly. Hence, it is urged that the administrator who is presently holding the charge has a bias against the present petitioner.

5. It is relevant to note that both the petitioners so also the respondents are ready and willing to participate in the process of election, if conducted by some other officer to be appointed by the Deputy Registrar barring the present administrator. As the petitioners and the respondents are ready and willing to participate in the fresh election by including the names of the present respondent nos.1 to 11 and others similarly situated, if any. I proceed to pass the following order on concession from the parties:

6. The Deputy Registrar shall nominate some other Cooperative Officer in place of Mr.V.S.Potdar who is presently acting as an administrator. The person so appointed in place of Mr.V.S.Potdar will conduct the election of the society in accordance with the rules and the bye-laws. The petitioners so also the respondents are directed to hand over whatever document and papers of the society they are having, to the person to be appointed by the Deputy Registrar. The appointment shall be made as early as possible and at any rate within 4 weeks from today and the officer so appointed as an administrator shall proceed to hold the election of the petitioner no.1 Housing Society in the month of January 2007. With these directions, writ petition is disposed of. Needless to mention that the election program that was declared during the pendency of this petition stands quashed and set aside.

(SHRI A.P.DESHPANDE, J)